

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 3123

IN THE MATTER OF:

Served February 2, 1988

Application of P&T TRANSPORTATION)
COMPANY, INC., for a Certificate of)
Public Convenience and Necessity to)
Conduct Special Operations)

Case No. AP-87-28

By application filed October 2, 1987, P&T Transportation Company, Inc. ("P&T" or "applicant"), seeks a certificate of public convenience and necessity to transport passengers in special operations between health care facilities in the Metropolitan District, on the one hand, and, on the other, points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less including the driver. 1/

A public hearing was held on November 24, 1987, pursuant to Order No. 3082, served October 16, 1987. Mr. Thomas A. Pickens and two public support witnesses testified on the applicant's behalf. No protests were filed within the time set therefor.

SUMMARY OF THE EVIDENCE

P&T currently holds WMATC Certificate No. 47 which authorizes the following transportation:

IRREGULAR ROUTES

SPECIAL OPERATIONS, round-trip or one-way,
transporting persons confined to wheelchairs:

Between medical treatment 2/ facilities located in
the Metropolitan District, on the one hand, and, on
the other, points in the Metropolitan District.

1/ To the extent that this application could be interpreted to include transportation between points solely within the Commonwealth of Virginia, the application was dismissed for want of jurisdiction by Order No. 3082.

2/ Applicant's representative testified that P&T did not intend to make a distinction between medical treatment facilities and health care facilities when it substituted the latter for the former in its application.

RESTRICTIONS: The service authorized herein is restricted to the transportation of non-ambulatory participants in the Medicaid program of the District of Columbia, and is further restricted to transportation in van-type vehicles specially equipped with ramps and mechanical devices for securing wheelchairs in transit.

Through the instant application P&T seeks to expand its existing authority to include the transportation of "private-pay" passengers, both ambulatory and non-ambulatory, as well as Medicaid participants who are ambulatory.

Mr. Thomas A. Pickens represented applicant at hearing. Mr. Pickens is the president of P&T, which has held WMATC operating authority since 1977. He testified that the company has received numerous requests to transport ambulatory private-pay individuals. Applicant has been forced to refuse the work because it lacks the necessary operating authority. Applicant presently carries approximately 97 passengers a week. Based on prior requests for transportation by private-pay, ambulatory individuals, P&T expects to carry about 115 additional passengers a week if this application is granted.

P&T's hours of operation extend from 6 a.m. to 9 p.m., Monday through Saturday. The application lists five WMATC revenue vehicles, but the witness testified that only three vehicles are in operation due to a lack of demand. If the expanded authority requested were granted, applicant would employ additional equipment as needed. All vehicles are equipped with ramps, wheelchair tie-downs, bench-seating, fire extinguishers, and first-aid kits. Applicant has a regular program of preventive maintenance and uses a professional mechanic for major repairs. Three full-time drivers and two assistants are employed. All drivers are experienced and have participated in a six to eight week training session covering driving techniques and treatment of non-ambulatory passengers.

Mr. Pickens submitted a balance sheet for P&T dated June 30, 1987, which listed current assets of \$8,872, fixed assets of \$16,745, liabilities of \$22,827, and earned surplus of \$2,790. Applicant's operating statement for January 1, 1987, through June 30, 1987, shows revenue of \$71,957.50 and operating expenses of \$68,151.14, yielding a net income of \$3,806.36. For the first year of expanded operations, applicant projects WMATC operating income of \$192,183.63 and WMATC operating expenses of \$153,300.26.

The proposed rate for travel within the Capital Beltway and up to one mile beyond its limits is \$43 per person round-trip and \$25 per person one-way. For travel beyond the Capital Beltway and the aforementioned one mile extension, an additional fee of \$1 per

loaded-mile or fraction thereof would be charged. A \$12.50 cancellation fee would be assessed when a vehicle is dispatched for service but not used. A \$5 waiting fee would be assessed for each 15 minutes of waiting time.

If the application is granted, applicant intends to maintain its existing tariff for service performed under the Medicaid program of the District of Columbia. Mr. Pickens stated that applicant is in compliance with the Compact and the Commission's rules and regulations and plans to continue that compliance.

Ms. Patricia Barbour testified on behalf of the applicant. Ms. Barbour is the transportation coordinator at the National Rehabilitation Hospital ("NRH") in Washington, D.C. Her responsibilities include making transportation arrangements for private-pay ambulatory persons. Ms. Barbour has had difficulty obtaining transportation for such persons because family members often are unable to take time off from work to transport the individuals. As a result, some persons have been transported from NRH to their homes by stretcher in an ambulance when that service is not medically required but is the only means available. In addition to needing transportation to the patients' homes in Washington, D.C., Prince George's and Montgomery Counties, Md., and Northern Virginia jurisdictions, transportation is needed for persons who are long-term in-patients at NRH to places within the Metropolitan District including airports, shopping malls, basketball games, and movie theaters. NRH has 20 to 30 private-pay ambulatory clients each month, most of whom would require transportation two to three times a week. The witness has used applicant's service for the transportation of Medicaid participants. It is her experience that service has been satisfactory and that patients enjoy riding with P&T. She would make greater use of applicant's service if the application were granted.

Mr. Samuel Leon Briggs also testified in support of the application. Mr. Briggs is administrator of the Multi-Service Senior Center which is associated with the Greater Southeast Center for the Aged located in Washington, D.C. His responsibilities include arranging transportation for persons who use the Senior Center. The witness stated a need for transportation between the Senior Center and points in Northern Virginia, Montgomery and Prince George's Counties, Md., and Washington, D.C. Senior Center participants are invited to attend a variety of functions throughout the Metropolitan District including plays, dinners, shopping and recreational trips. Some participants are unable to attend the various functions because of a lack of transportation. He believes that, if additional private-pay ambulatory services were available, Senior Center participants would be able to become more involved in the community and in activities which are open to them for their enjoyment. The witness believes that he will be able to refer at least 30 private-pay ambulatory passengers to applicant two weekends a month in addition to two or three evenings a week.

DISCUSSIONS AND CONCLUSIONS

In determining whether to grant or expand a certificate of public convenience and necessity, we look to Title II, Article XII, Section 4(b) of the Compact which requires that an applicant prove it is fit, willing and able to perform properly the proposed transportation and to conform to the provisions of the Compact and the Commission's rules, regulations, and requirements thereunder. Section 4(b) further requires that the applicant prove the proposed service is required by the public convenience and necessity.

Based on a review of the record, we find P&T fit, willing and able properly to perform the proposed service. P&T has experience in providing passenger transportation as evidenced by the fact that it has held a WMATC certificate for 10 years. The proposed operation would be conducted in essentially the same manner as current operations. Applicant would be using three vehicles equipped with bench seating to accommodate ambulatory passengers. It has two additional vehicles which would be readily available if demand dictates. Financial data indicate adequate financing to sustain the proposed operations. P&T's president evinced a willingness on the part of P&T to continue to comply with the Compact and Commission rules and regulations.

We now turn to the matter of whether applicant has satisfied its burden of proving that the public convenience and necessity require the proposed service. The Commission uses the standard enunciated in Pan-American Bus Lines Operations (1 MCC 190, 203 [1936]) when interpreting this provision of the Compact. The Pan American test consists of three parts as follows:

. . . whether the new operation or service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing lines or carriers; and whether it can be served by applicant with the new operations or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest.

P&T produced two public witnesses, both expressing a need for an additional carrier authorized to transport private-pay ambulatory passengers. The testimony of applicant's first public witness, Ms. Barbour, supports a finding that users of NRH need the proposed service. However, Mr. Briggs, applicant's second public witness, testified as to a need for service beyond the scope of this application. P&T requests authority to transport passengers between health care facilities in the Metropolitan District, on the one hand, and, on the other, points in the Metropolitan District. Mr. Briggs testified on behalf of the Multi-Service Senior Center which is a part of the Greater Southeast Center for the Aged. Although the witness

testified that the Senior Center happens to be located in a building that also houses a dialysis treatment center, Mr. Briggs arranges transportation for persons participating in unrelated Senior Center recreational activities. It would, therefore, be improper for us to consider this testimony as relevant to the application before us or representative of transportation needed by persons using the dialysis treatment center.

Unable to use Mr. Brigg's testimony to satisfy the first part of the Pan American test, we must determine whether the testimony put forth by Ms. Barbour evidences sufficient need to warrant the grant of expanded authority to applicant. On behalf of the National Rehabilitation Hospital, Ms. Barbour estimated that she would be able to refer 20 to 30 private-pay ambulatory patients to applicant's service, possibly as often as two or three times a week, for transportation between NRH, on the one hand, and, on the other, points in the Metropolitan District. Such requests represent 40 to 90 additional trips a week for P&T. Accordingly, based upon the evidence of record, we find that P&T Transportation Company, Inc., has met its burden of proving that its proposed service between NRH, on the one hand, and, on the other, points in the Metropolitan District, will serve a useful purpose, responsive to the public need. Since no protests were entered, there is no showing that this need for service can be met effectively by any existing carriers, and we conclude that the service hereinafter authorized will not materially affect the operations of any existing carriers.

THEREFORE, IT IS ORDERED:

1. That P&T Transportation Co., Inc., is hereby conditionally granted authority, contingent upon its compliance with the requirements of this order, to transport passengers in special operations between the National Rehabilitation Hospital, 102 Irving Street, N.W., Washington, D.C., on the one hand, and, on the other, points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less including the driver and further restricted against transportation solely within the Commonwealth of Virginia.

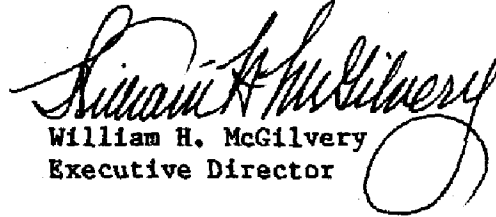
2. That P&T Transportation Company, Inc., is hereby directed to file with the Commission two copies of its WMATC Tariff No. 2 as proposed in its application.

3. That unless P&T Transportation Company, Inc., complies with the requirements of the preceding paragraph within 30 days from the service date of this order or such additional time as the Commission may direct or allow, the grant of authority contained herein shall be void, and the application shall stand denied in its entirety, effective upon the expiration of the said compliance time.

4. That upon timely compliance with the requirements of this order, P&T Transportation Company, Inc., will be issued a revised Certificate of Public Convenience and Necessity in the form contained in the appendix to this order.

5. That the application, except to the extent granted herein, is denied.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director

P&T TRANSPORTATION CO., INC.

WASHINGTON, D.C.

IRREGULAR ROUTES:

-A-

SPECIAL OPERATIONS, round-trip or one-way,
transporting persons confined to wheelchairs:

Between medical treatment facilities located in the
Metropolitan District, on the one hand, and, on the
other, points in the Metropolitan District.

RESTRICTED to the transportation of non-ambulatory
participants in the Medicaid program of the District
of Columbia, and further restricted to transportation
in vehicles specially equipped with ramps and
mechanical devices for securing wheelchairs in
transit.

-B-

SPECIAL OPERATIONS, roundtrip or one-way,
transporting persons between the National
Rehabilitation Hospital, 102 Irving Street, N.W.,
Washington, D.C., on the one hand, and, on the other,
points in the Metropolitan District.

RESTRICTED IN BOTH A and B above to transportation in
vehicles with a manufacturer's designed seating
capacity of 15 passengers or less including the
driver and further restricted against transportation
solely within the Commonwealth of Virginia.